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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,860	10/29/2003	Kenneth A. Thomas	84820-4402 ADB	5712
530 7590 08/01/2008 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				
EXAMINER SELLMAN, CACHET I				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
08/01/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/694,860

**Applicant(s)**

THOMAS, KENNETH A.

**Examiner**

CACHET I. SELLMAN

**Art Unit**

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10 and 12-24 is/are pending in the application.
- 4a) Of the above claim(s) 12-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-8, 10 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (CA2314283) in view of Miekka et al. (US 6540865) and Ugolick et al. (US 5993961).

Thomas et al. discloses a process for forming a colored tape which are applied to paperstock as tabs. The process comprises providing a base film of a polymeric material, layer 10 is made of PET; using a mixer to mix coloring pigments and/or dyes with a laminating adhesive (EVA) to form a mixture; applying the mixture to a first surface of the base film (abstract, see page 5, lines 8-20); the mixture is applied to the first surface of the base film to form a first layer covering the surface (see Fig. 1 and 2);

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the mixture is dried to provide a dry layer (see page 4, lines 13-18). Thomas et al. does not disclose or show that a release coating is formed between the first film and the first surface of the base film. Thomas et al. teaches forming the tape in a tape width; winding the tape into a roll where the color is visible through the base film (see col. 5, lines 1-2). Thomas et al. fails to teach applying a hot melt layer on top of the first layer as required by **claim 1**.

However, it was well known in the art that adding the pigment to the laminating adhesive layer can adversely affect the adhesive properties (see col. 32, lines 34-37 of Miekka et al.). Miekka et al. teaches a process for forming tape which comprises a base material and applying a first layer and a second layer of material thereto. It would have been obvious to one having ordinary skill in the art to apply an additional detack layer thereto due to the decrease in adhesive properties when adding the coloring agent/pigment to the laminating layer to provide sufficient adhesion.

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Thomas et al. teaches that the film is longitudinally slit into a plurality of side by side tapes and winding the tapes into individual supply packages for supply (see claim 2 page 7, lines 10-12) as required by **claim 2**. The base film is PET (see page 3, line 7) as required by **claim 3**. The base film and layers are cut into a plurality of colored tabs for bonding to a paper sheet (see page 3, lines 10-12) as required by **claim 4**. The base film is 0.00048-0.0040 inches (see page 3, lines 13-14) as required by **claim 6**. The composite of base film, first layer and detack layer are cut into tabs and bonded to the paper through the detack layer after it is heat activated as required by **claims 5 and 10**.

The film comprises of only these three layer as required by **claim 7**. The EVA plus pigment layer is applied as a liquid including solvents as required by **claim 8**.

As to claim 24, Miekka et al. does not teach the use of a release coating on the second surface of its base film. However Miekka et al. teaches in col. 8, lines 26-32, "Adhesive interference or blocking between the DL and an adjacent backside surface of the release liner is not desired because it results in the release liner being pulled away from the PSA layer during the removal or separation operation, thereby rendering the prelaminate PSA construction useless." The Examiner notes that it is a well known step in the adhesive laminate/tape manufacturing art to apply a release coating to the bottom surface of a base film to avoid sticking on itself when the product is wound and unwound. Ugolick et al. teaches in its discussion of conventional PSA constructions: "the release surface may be provided ... on the backside of the facestock 12 in an application where the construction is intended to be rolled upon itself such as to produce an adhesive tape" (col. 3, lines 6-10). It is the Examiner's position that it would have been obvious for one having ordinary skill in the art to have applied a release coating to the second surface of the base film upon seeing the teaching in Miekka et al. that adhesion between the DL and an adjacent backside surface of the release liner is undesirable, and since it is well known to apply a release coating to the second surface of a film when rolling as taught by Ugolick et al. Further, one would expect successful results because both references are similarly directed to the manufacture of adhesive laminate constructions.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CACHET I. SELLMAN whose telephone number is (571)272-0691. The examiner can normally be reached on Monday through Friday, 7:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cachet I Sellman  
Examiner  
Art Unit 1792

/C. I. S./  
Examiner, Art Unit 1792

/William Phillip Fletcher III/  
for Timothy H. Meeks, SPE of Art Unit 1792/1700